

JUDGE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

TOBIAS GRACE,

Defendant.

NO. CR04-5460RBL

Final Order of Forfeiture

THIS MATTER comes before the Court on motion of the United States for entry of
a Final Order of Forfeiture with respect to the following assets:

- a. \$34,500.00 representing proceeds from the sale of a 2003 Hummer H2, VIN 5GRGN23U23H110403;
- d. \$6,858.00 representing the cash balance and proceeds from the sale of securities frozen in Southwest Securities Retirement Account No. XXXXX4565;
- e. \$1,014,043.00 representing the cash balance and proceeds from the sale of securities frozen in Southwest Securities Account No. XXXX9723;
- f. \$118,271.00 representing the cash balance and proceeds from the sale of securities frozen in Southwest Securities Retirement Account No. XXXXX1039;
- g. \$214,091.00 in United States currency seized from 6518 NE 47th Street, Vancouver, Washington;
- h. \$91,119.28 representing the cash balance and proceeds from the surrender of Northwestern Mutual Life Insurance Policy No. XXXX8510; and
- i. \$452,179.48 representing the cash balance and proceeds from the sale of securities frozen in CyberTrade Account No. XXXX8049;

- 1 j. \$30,000.00 in United States currency seized from Tobias Grace on or about
February 14, 2005;
- 2 k. \$21,990.44 frozen in First Independent Bank Account No. XXXXX9997;
- 3 l. \$31,348.55 frozen in Compass Bank Account No. XXXX5725;
- 4 m. \$90,000.00 held in the Trust Account of Attorney Barry Flegenheimer;
- 5 p. \$10,931.20 in Primerica IRA account No. XXXXX8464 (Toby Grace), at
6 Primerica Shareholders Services, PO Box 9662, Providence, RI 02940-
9662; and
- 7 q. \$22,578.00 in Brown & Company, IRA account No. XXXX3350 (Toby
8 Grace) at Brown Co., One Beacon Street, Boston MA 02108-3102.

9 On January 29, 2009, this Court entered a Preliminary Order of Forfeiture against
10 Tobias Grace forfeiting \$34,500.00 representing proceeds from the sale of a 2003
11 Hummer H2, VIN 5GRGN23U23H110403; \$ 868.00, posted with the United States
12 Marshals Service as bond for payment of storage charges incurred with respect to a 2002
13 Ford Excursion, VIN 1FMSU43F52EA67103¹; the residence and real property located at
14 6518 NE 47th Street, in Vancouver, Washington; \$6,112.17 representing the cash balance
15 and proceeds from the sale of securities frozen in Southwest Securities Retirement
16 Account No. XXXXX4565; \$1,253,709.92 representing the cash balance and proceeds
17 from the sale of securities frozen in Southwest Securities Account No. XXXX9723;
18 \$157,488.73 representing the cash balance and proceeds from the sale of securities frozen
19 in Southwest Securities Retirement Account No. XXXXX1039; \$214,091.00 in United
20 States currency seized from 6518 NE 47th Street, Vancouver, Washington; \$91,119.28
21 representing the cash balance and proceeds from the surrender of Northwestern Mutual
22 Life Insurance Policy No. XXXX8510; \$452,179.48 representing the cash balance and
23 proceeds from the sale of securities frozen in CyberTrade Account No. XXXXX8049;
24 \$30,000.00 in United States currency seized from Tobias Grace on or about February 14,
25 2005; \$21,990.00 frozen in First Independent Bank Account No. XXXXX9997;

26
27 ¹This amount was erroneously listed in the Preliminary Order of Forfeiture. This money was the
28 total cost for the storage of the 2002 Ford Excursion while it was in USMS custody. When the vehicle was returned
to the defendant, he was required to reimburse the USMS for storage costs. Therefore the money was not subject to
forfeiture and the United States is not seeking a Final Forfeiture Order with respect to this asset.

\$31,348.55 frozen in Compass Bank Account No. XXXX5725; \$90,000.00 held in the Trust Account of Attorney Barry Flegenheimer; \$278.83 in Pay Pal Account of Smart Software, (Toby Grace), tobyg@teleport.com; \$14,258.63 in Pay Pal Account of Seattle Software, (Toby Grace), Tobyj6@comcast.net; \$10,931.20 in Primerica IRA account No. XXXXX8464 (Toby Grace), at Primerica Shareholders Services, PO Box 9662, Providence, RI 02940-9662; and \$22,578.00 in Brown & Company, IRA account No. XXXX3350 (Toby Grace) at BrownCo, One Beacon Street, Boston MA 02108-3102.

On July 15, 2009, this Court entered an Amended Preliminary Order of Forfeiture against Tobias Grace forfeiting his interest in \$6,858.00 representing the cash balance and proceeds from the sale of securities frozen in Southwest Securities Retirement Account No. XXXXX4565 \$1,014,43.00 representing the cash balance and proceeds from the sale of securities frozen in Southwest Securities Account No. XXXX9723; and \$118,271.00 representing the cash balance and proceeds from the sale of securities frozen in Southwest Securities Retirement Account No. XXXXX1039.^{2, 3}

The above-referenced assets were subject to forfeiture pursuant to Title 18, United States Code, Section 981(a)(1)(C), Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 982, based on Tobias Grace's guilty plea to Conspiracy to Traffic in Counterfeit Labels and Computer Program Documentation, in violation of Title 18, United States Code, Section 371, and Trafficking in Counterfeit Labels and Computer Program, in violation of Title 18, United States Code, Section 2318; and Conspiracy to Engage in Money Laundering, in violation of Title 18, United States Code, Section 1956(h), and Money Laundering, in violation of Title 18, United States Code, Sections 1956(a)(1)(A) and 1957, and his agreement to forfeit the property.

Pursuant to Title 21, United States Code, Section 853(n), the United States published notice on an official government forfeiture website, currently

²Due to the fluctuation in value of the accounts, the original Preliminary Order incorrectly stated the amounts for these assets.

³The money in the two Pay Pal accounts was never seized and the accounts are now closed. Therefore, these assets were removed from the Preliminary Order of Forfeiture.

1 www.forfeiture.gov for thirty (30) days beginning March 12, 2009. In the publication the
2 United States published notice of the Preliminary Order of Forfeiture and the intent of the
3 United States to dispose of the property in accordance with law. This notice further stated
4 that any person other than the defendant having or claiming an interest in the property
5 was required to file a petition with the Court within thirty (30) days of the final
6 publication of the notice or personal receipt of the notice, whichever was earlier, setting
7 forth the nature of the petitioner's right, title, and interest in property.

8 On July 17, 2009, the United States sent notice via certified mail to First
9 Independent Bank of the intent to forfeit the real property listed in the Notice of
10 Publication in the criminal case filed against Tobias Grace. The return receipt indicates
11 delivery to First Independent Bank on July 20, 2009.

12 On July 29, 2009, First Independent Bank filed a Verified Petition Asserting a
13 Claim to Real Property located at 6518 NE 47th Street, Vancouver, Washington (Docket
14 No. 200).

15 On October 28, 2010, the United States and First Independent Bank filed a
16 Stipulated Expedited Settlement Agreement in which the United States and First
17 Independent Bank agreed to compromise and settle Petitioner's claim with respect to the
18 real property located at 6518 NE 47th Street, Vancouver, Washington (Docket No. 229).

19 On October 29, 2009, the Court entered an Order Approving the Stipulated
20 Settlement Agreement (Docket No. 230).

21 On January 13, 2011, the United States filed a Motion for Entry of First Final
22 Order of Forfeiture for the real property located at 6518 NE 47th Street, Vancouver,
23 Washington. (Docket No. 232). On January 21, 2011, this Court granted the United
24 States's motion. (Docket No. 233).

25 All persons and entities believed to have an interest in the assets subject to
26 forfeiture were given proper notice of the intended forfeiture.

27 No other petitioners or claimants have come forth to assert an interest in the
28 forfeited property and the time for doing so has expired.

1 IT IS ORDERED, ADJUDGED, and DECREED that the following property is
 2 hereby fully and finally condemned and forfeited to the United States in its entirety:

- 3 a. \$34,500.00 representing proceeds from the sale of a 2003 Hummer H2, VIN
 4 5GRGN23U23H110403;
- 5 d. \$6,858.00 representing the cash balance and proceeds from the sale of
 6 securities frozen in Southwest Securities Retirement Account No.
 7 XXXXX4565;
- 8 e. \$1,014,043.00 representing the cash balance and proceeds from the sale of
 9 securities frozen in Southwest Securities Account No. XXXX9723;
- 10 f. \$118,271.00 representing the cash balance and proceeds from the sale of
 11 securities frozen in Southwest Securities Retirement Account No.
 12 XXXXX1039;
- 13 g. \$214,091.00 in United States currency seized from 6518 NE 47th Street,
 14 Vancouver, Washington;
- 15 h. \$91,119.28 representing the cash balance and proceeds from the surrender
 16 of Northwestern Mutual Life Insurance Policy No. XXXX8510;
- 17 i. \$452,179.48 representing the cash balance and proceeds from the sale of
 18 securities frozen in CyberTrade Account No. XXXX8049;
- 19 j. \$30,000.00 in United States currency seized from Tobias Grace on or about
 20 February 14, 2005;
- 21 k. \$21,990.44 frozen in First Independent Bank Account No. XXXXX9997;
- 22 l. \$31,348.55 frozen in Compass Bank Account No. XXXX5725;
- 23 m. \$90,000.00 held in the Trust Account of Attorney Barry Flegenheimer;
- 24 p. \$10,931.20 in Primerica IRA account No. XXXXX8464 (Toby Grace), at
 25 Primerica Shareholders Services, PO Box 9662, Providence, RI 02940-
 26 9662; and
- 27 q. \$22,578.00 in Brown & Company, IRA account No. XXXX3350 (Toby
 28 Grace) at Brown Co., One Beacon Street, Boston MA 02108-3102.

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1 The United States Marshals Service is authorized to dispose of the above-listed
2 property in accordance with the law.

3 DATED this 15th day of April, 2011.

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6 BENJAMIN H. SETTLE
7 United States District Judge

8 for RONALD B. LEIGHTON
9 UNITED STATES DISTRICT JUDGE
10

11 Presented by:

12
13
14 s/ Richard E. Cohen

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